IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 2486 of 2007(U)

PETITIONER:

KRISHNAMMA W/O.MOHAN CHANDRAN (LATE)
MOHANA MANDIRAM, T.C.4/2512,
MARAPPALAM, THIRUVANANTHAPURAM.

BY ADV. SRI.D.SAJEEV
SMT.S.B.JAYARESMI

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

2. THE SPECIAL TAHSILDAR,
LAND ACQUISITION UNIT, COLLECTORATE BUILDING,
VANCHIYOOR, THIRUVANANTHAPURAM.

3. THE SECRETARY, THIRUVANANTHAPURAM
DEVELOPMENT AUTHORITY (TRIDA)
THIRUVANANTHAPURAM.

BY ADV. SRI.K.A.JALEEL, SC., TRIDA
BY GOVERNMENT PLEADER SMT.LATHA THANKAPPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

Ext.P1:- True copy of the Partition Deed dated 27.10.1995
Ext.P2:- True copy of the tax receipt dated 4.5.2006 for 1.500 cents of land in favour of the petitioner and her children.

Ext.P3:- True copy of the Legal heirship certificate issued in favour of the petitioner by the Tahsildar,Thiruvananthapuram dated 21.7.2005.

Ext.P4:- True copy of the representation submitted by the petitioner before the 2nd respondent dated 27.2.2006.

Ext.P5:- True copy of the representation filed by the petitioner dated 11.1.2007 before the 1st respondent.

Ext.P6:- True copy of the representation filed by the petitioner dated 11.1.2007 before the 2nd respondent.

Ext.P7:- True copy of the representation filed by the petitioner dated 11.1.2007 before the 3rd respondent.
Ext.P8:- True copy of the assessment register of Division No.IV of Kuravnkonam for the year 1988-89

/true copy/

P.S. To Judge

M.SASIDHARAN NAMBIAR,J.

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W.P.(C) NO.2486 OF 2007

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Dated this the 9th day of August, 2007

JUDGMENT

This petition is filed under Article 226 of the Constitution of India for a writ of mandamus commanding second respondent not to proceed with the acquisition proceedings in respect of 1.500 cents of land in Sy.No.2499/1 of Kawadiar Village which according to petitioner, absolutely belongs to her as covered by patta No.21797. Case of the petitioner is that though the property of the petitioner is not included in the plan prepared for acquisition for the purpose of Pattam-Kawadiar road widening, as per Section 4(1) Notification the property of the petitioner is attempted to be taken as part of the property to be acquired and no notice has been served on the petitioner and therefore a writ of mandamus is to be issued.

2. First respondent filed a counter affidavit admitting that as per the revenue record 1.500

cents in survey No.2499/1 of Kawadiar Village is registered in the name of petitioner and her children M.K.Anjana and minor M.K. Jayakrishnan under thandaper account No.21797 and on a request from the third respondent for acquisition of land in various survey numbers of Kawadiar Village, Section 4(1) Notification was issued and subsequently acquisition areas within the alignment stones planted by the third respondent was surveyed and a sketch was prepared and the alignment stones are not in the property of the petitioner and no portion of the land in survey No.2499/1 falls under the acquisition and therefore property of the petitioner is not being acquired. Third respondent has also filed a counter affidavit. Contending that property of the petitioner is not taken possession, and so no notice as stipulated in the Land Acquisition Act has been served on the petitioner. As and when the land is required for road widening, it will be taken only after complying with all formalities as envisaged under

the Act.

3. On hearing learned counsel appearing for petitioner and learned Government pleader as well as the Standing Counsel for third respondent, it is clear that there is no proposal to acquire the property belonging to the petitioner. The apprehension of the petitioner is that under the guise of that Notification, without proper identification portion of the property of the petitioner may also be acquired. In view of the statement in the counter affidavit, I do not find any basis for the apprehension. It is made clear that the property is to be acquired after proper identification and complying with the provisions of Land Acquisition Act.

M.SASIDHARAN NAMBIAR
JUDGE

tpl/-

M.SASIDHARAN NAMBIAR, J.

W.P.(C).NO. /06

JUDGMENT

SEPTEMBER,2006